THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.890 of 1999

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.183 of 1994 dated 1.12.1997 on the file of the first respondent-Labour Court.

The petitioner is the workman and second respondent is management. It appears, petitioner was appointed as Conductor in the Respondent-Corporation with effect from 1.4.1987 and posted at Sathupally Depot. While he was conducting the Bus on route Ashwaraopeta to Sathupally on 17.2.1994, a check was exercised at Stage No.10/11 after Malkaram village and certain cash and ticket irregularities were found to have committed by the checking officials. A charge memo was issued to the petitioner and basing on the charge memo, charge sheet was issued enumerating the following charges.

"i) For having violated the rule 'Issue and Start' while conducting the service on route Aswaraopet-Malkaram-Sathupally on 17.2.1994 which amounts misconduct in terms of Reg.28(vi)(a) of APSRTC Employees (Conduct) Reg. 1963.

ii) For having failed to issue tickets to (12) twelve passengers (5+4+3) who boarded the bus at Guthavarigudem and bound for Dammapet ex-stages 12/11 and 9 in spite of collection of requisite fare at the rate of Rs.2-75 ps. each (total Rs.33/-) at their boarding point itself which amounts to misconduct in terms of Reg.28(vi)(a) of APSRTC Employees (Conduct) Reg. 1963.

iii) For having closed the tray numbers of all denominations upto stage No.11 without issuing above tickets which is misconduct in terms of Reg.28(xxv) of APSRTC Employees (Conduct) Reg. 1963".

Since the explanation submitted by the petitioner was not satisfactory, a detailed enquiry was ordered into the matter and the enquiry officer submitted a report holding the petitioner guilty of charges. The disciplinary authority ultimately, after issuing notice, passed removal order

dated 7.5.1994. Aggrieved by the same, petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the first respondent-Labour Court. It is the case of the petitioner that neither the enquiry was properly conducted nor the charges framed against him were proved and even assuming that the charges are proved, punishment of removal from service is proportionate to that of the misconduct alleged against the petitioner. The management filed a detailed counter asserting that the enquiry was properly conducted and the findings of the enquiry officer and the disciplinary authority were based on evidence on record and since the past service of the petitioner was not good as he was inflicted with punishment of deferment of annual increment for six times for similar misconduct, the punishment of removal cannot be said to be either arbitrary or disproportionate to that of the misconduct proved. No oral or documentary evidence has been adduced on either side. However, on the basis of the evidence placed before it, the Labour Court came to the conclusion that the enquiry conducted by the management was proper and valid and the charges framed against the petitioner were established on the basis of evidence, however, held that the imposition of punishment of removal from service is disproportionate to that of the misconduct proved. Therefore, directed the respondent-management to re-employ the petitioner as a fresh candidate without back wages, without continuity of service and without attendant benefits. Aggrieved by the same, the present writ petition is filed.

It is the contention of the learned counsel for petitioner that the Labour Court having found that the punishment of removal from service is disproportionate to that of the misconduct alleged, ought to have granted continuity of service and attendant benefits and denying the same, the Labour Court erred in passing such an award, which is contrary to Section 11-A of the I.D. Act.

Per contra, the learned counsel for respondents supported the award

passed by the Labour Court and submitted that the petitioner's past service was not clean and he was censured with three times and his annual increments were deferred six times for the similar misconduct and in spite of the same, the Labour Court has taken a lenient view of the matter and granted re-employment as fresh candidate, therefore, no interference can be called into such an award passed by the Labour Court.

I am in full agreement with the learned counsel for respondents that the Labour Court in fact has taken lenient view of the matter in exercising power under Section 11-A of the I.D. Act. In the facts and circumstances of the case, I am of the view that the petitioner does not deserve any further relief as prayed for. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,
J

Date: 20.4.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.890 of 1999

20.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.890 of 1999

Date: 20th April, 2007

Between:

N.Jacobaiah

.. Petitioner

And

Industrial Tribunal-cum-Labour Court,
Warangal & another.

.. Respondents